

Memo

To: Board of Managers
From: Michael Younes, Director of Municipal Operations *My*
CC: Shana Davis-Cook, Village Manager
Date: 10/9/2013
Re: Maryland State Highway Administration Material Utilization Agreement

Proposal

Enter into a Salt Utilization Agreement and Supplemental Letter of Agreement between the Village and SHA to allow the Village to purchase road salt from SHA during winter weather events.

Background

During winter weather events, the Village uses salt/sand abrasives to maintain clear and safe travel along Village roadways.

In order to assist Village Public Works Crews in maintaining safe and passable roadways during winter weather events, in the past, we have pre-treated roadways with a magnesium chloride liquid brine, which, in order to be effective, can only be applied under certain conditions. Due to the technical restrictions of the brine and overall cost per application, the Public Works Supervisor and I believe the overall benefit for the brine is not worth the expense and effort.

Currently, the Village purchases bulk abrasive materials from Montgomery County on a per ton basis. The material is a salt/sand mix and the ratios are adjusted during events based on conditions and predicted snow fall amounts. In the past we have observed that during heavy snow events, County policy has been to reduce the amount of salt in the ratio that is provided to private contractors, including municipalities, to ensure that County crews and contractors have enough salt to adequately treat County roadways. The County also provides pure salt for its major roadways; however, the County does not allow municipalities to purchase from that supply. Current pricing for the salt/sand mix is \$59 per ton.

Regardless of action on the proposed salt utilization agreement, the Village will still be able to purchase salt/sand from the County.

If the Board authorizes the Village to enter into the proposed agreement, the Village would be able to purchase salt materials from the Maryland State Highway Administration (SHA), which uses pure salt. The Public Works Supervisor and I believe that if the Village switches to a pure salt regiment, then the total material tonnage can be reduced while achieving the same or better result.

SHA Agreement

Under the proposed agreement, the Village would be allowed to purchase bulk road salt from SHA on a per ton basis like our current arrangement with Montgomery County.

Below is a list of the pertinent provisions within the salt utilization agreement for Board consideration:

1. The Village will be able to pick-up salt at any SHA facility located in Montgomery County.
2. SHA will charge the Village \$55.86 per ton plus a 7.66% overhead fee for material handling charges.
3. The agreement shall be effective for a period of four (4) years at which time the Village and SHA must execute a new agreement.
4. Over the life of the agreement the Village and SHA agree that the total amount to be billed to the Village will not exceed \$55,800. However, this can be modified each year through a supplement to the main agreement if needed.

Staff Recommendation

Staff recommends that the Village approve and authorize the Village Manager to execute the attached Salt Utilization Agreement and Supplemental Letter of Agreement between the Village and SHA to allow the Village to purchase road salt from SHA during winter weather events.

Board Action

If the Board concurs with staff's recommendation, staff requests authorization for the Village Manager to execute the attached Salt Utilization Agreement and Supplemental Letter of Agreement between the Village and SHA to allow the Village to purchase road salt from the SHA during winter weather events.

Draft Motion: *I move to **APPROVE/DENY** staff's recommendation to authorize the Village Manager to execute the attached Salt Utilization Agreement and Supplemental Letter of Agreement between the Village and SHA.*

Attachment

- 1) Draft Salt Utilization Agreement with SHA
- 2) Supplemental Letter of Agreement

SALT UTILIZATION AGREEMENT

by and between
Maryland State Highway Administration
and
Chevy Chase Village, Maryland

This AGREEMENT ("**AGREEMENT**") made this ____ day of _____, 2013, executed in duplicate, between the Maryland State Highway Administration ("**SHA**") and Chevy Chase Village,, a political subdivision of the State of Maryland and a body politic and corporate ("**VILLAGE**").

WHEREAS, during certain winter snow emergency operations ("**SNOW EVENT**") the VILLAGE may have a need to obtain additional salt ("**SALT**") to effectively complete its winter snow operations; and

WHEREAS, the VILLAGE has requested, and SHA has agreed, to allow the VILLAGE to obtain SALT from SHA stockpiles during a SNOW EVENT in accordance with the terms and conditions contained herein; and

WHEREAS, the VILLAGE shall reimburse SHA for the SALT at SHA's cost, including overhead if applicable, which at the time of execution of this AGREEMENT is 7.66% of the cost of the SALT; and

WHEREAS, the cost of the SALT at the time of execution of this AGREEMENT is Fifty Five Dollars and Eighty Six Cents (\$55.86) per ton, which includes the cost of the SALT and a delivery charge; and

WHEREAS, the parties acknowledge that the initial SALT price is subject to annually awarded contracts by SHA and shall be adjusted accordingly; and

WHEREAS, the cost of the SALT is subject to weekly adjustments to account for fuel price variances; and

WHEREAS, SHA shall invoice the VILLAGE for all costs for SALT received by the VILLAGE, including SHA overhead; and

WHEREAS, the term of the AGREEMENT ("**TERM**") shall be for a period of four (4) years with a not to exceed cost of Fifty Five Thousand Eight Hundred Dollars (\$55,800.00); and

WHEREAS, SHA and the VILLAGE agree that this AGREEMENT will benefit both parties and will promote the safety, health and general welfare of the citizens of the State.

NOW, THEREFORE, in consideration of the premises and of the mutual promises between the SHA and the VILLAGE, as set forth herein, the adequacy of which is hereby acknowledged, the parties hereby agree to the following:

I. TERM

The TERM of this AGREEMENT is for a period of Four (4) years beginning the first day of September 2013 and ending on the thirty first (31st) day of August 2017, both dates inclusive, unless sooner terminated as set forth herein.

During the TERM of the AGREEMENT the cost for the total amount of SALT to be distributed to the VILLAGE shall not exceed Fifty Five Thousand Eight Hundred Dollars (\$55,800.00).

II. ESTABLISHMENT of the SALT ACCOUNTS

- A. SHA has established a charge number for the VILLAGE which will be used to document SALT withdrawals from SHA's inventory system. The current charge number for the VILLAGE is BY _____.
- B. The initial cost per ton, including delivery charge, applicable overhead charge, estimated annual quantity of SALT, contact information and any special requirements will be set forth in a Supplemental Letter of Agreement in substantially the form attached hereto as **EXHIBIT "A"** (the "**SUPPLEMENTAL LOA**"). The **SUPPLEMENTAL LOA** is to be executed annually prior to any SALT withdrawals for the forthcoming winter season.

III. PROCEDURES

A. SALT Scheduling

- 1. **SHA Shop Locations:** For purposes of this AGREEMENT, the SHA shops to be used for SALT, as determined by SHA, are:
 - Gaithersburg Salt Dome; and
 - Kensington Salt Dome; and
 - Fairland Salt Dome.
- 2. **Prior to a SNOW EVENT:** The VILLAGE will contact SHA's Gaithersburg Shop at 301.948.2477 or SHA's Fairland Shop at 301.572.5166 to arrange for the VILLAGE's trucks to be loaded at the designated location with the SALT the day before a local forecasted snow if time permits, otherwise SHA and the VILLAGE will determine which SHA salt storage site is appropriate to load the SALT onto the trucks out of and SHA will provide an operator to facilitate the loading of the SALT.

3. **During the SNOW EVENT:** The VILLAGE will contact the appropriate SHA Shop and request to be loaded at an approximate preferred time of arrival at whichever SHA shop is nearest to that truck. SHA will then arrange for an operator to meet the VILLAGE truck at that dome as close to the preferred time as possible without negatively affecting SHA operations. In addition, if a VILLAGE truck is in the vicinity of the dome during a SNOW EVENT and an SHA operator is present, the VILLAGE truck may then be topped off, if desired. In situations where the SHA SNOW EVENT operations are already active when the VILLAGE operations begin, the VILLAGE can notify SHA as far in advance as possible and SHA will make every effort to provide an operator at all the locations requested in order to begin loading VILLAGE trucks with SALT.
4. **Post SNOW EVENT:** The VILLAGE can contact the appropriate SHA shop to request re-loading after a SNOW EVENT, and SHA will schedule the re-loading at both parties convenience.

B. Load Records

1. An SHA loader operator must load the VILLAGE trucks.
2. SHA shall create a written loading record that must be signed by the VILLAGE driver and a copy shall be given to the driver to account for every load of SALT that the VILLAGE receives from SHA. Each load record shall contain the following:
 - a. truck number or license tag number,
 - b. the number of scoops/ buckets,
 - c. the number of tons – based on the scoops / bucket size value multiplied by the number of scoops /buckets.

IV. PAYMENT to SHA for SALT

- A. SHA shall provide a detailed invoice to the VILLAGE by May 31st of each year for all actual costs incurred by SHA to provide SALT to the VILLAGE including SHA overhead. The invoice shall be accompanied by normal documentation from SHA to evidence actual costs incurred.
- B. The invoice shall document the prevailing price for SALT along with the appropriate fuel adjustments based on the date the SALT is received by the VILLAGE.

- C. Upon request by the VILLAGE, SHA may provide an Excel spreadsheet of all dates, number of buckets and estimated tonnage provided to the VILLAGE on each date of withdrawal.
- D. SHA can provide calculation of the formula to show the final dollar value requested for the utilization of SALT during the SNOW EVENTS of each winter pursuant to the AGREEMENT and applicable SUPPLEMENTAL LOA.
- E. The estimated cost of the SALT is based on the average amount of SALT used during the previous five years at the prevailing rate at the time of execution of this AGREEMENT adjusted to inflation, and will be adjusted according to fuel charges in effect at that time.
- F. Reimbursement to SHA for the SALT during the TERM of this AGREEMENT, including SHA overhead, is estimated to be Fifty Five Thousand Eight Hundred Dollars (\$55,800.00) and is based on estimated quantities from the previous year, however, actual costs and tonnage may vary and the VILLAGE shall reimburse SHA for actual tonnage and costs.
- G. In the event of extremely heavy SALT usage, SHA reserves the right to submit progress billings to the VILLAGE in lieu of one (1) annual invoice.
- H. The VILLAGE shall reimburse SHA for all costs incurred by SHA for all supplied SALT provided during the winter pursuant to this AGREEMENT and applicable SUPPLEMENTAL LOA within thirty (30) days of receipt of each invoice.
- I. In the event SHA does not receive payment of invoices within thirty (30) days of receipt of the invoice by the VILLAGE, SHA will notify the VILLAGE of the overdue payment and provide the VILLAGE the opportunity to pay such overdue amounts. If payment of the overdue amount is not received within thirty (30) days following notification, SHA will then notify the VILLAGE in writing, that SHA may make a deduction from the VILLAGE's share of Highway User Revenue equal to the overdue invoice amount(s) or SHA may refer the overdue amount to the Central Collection Unit, at 300 West Preston Street, Room 500, Baltimore MD 21201-2365 for collection of overdue amount.

V. GENERAL

- A. The cost to the VILLAGE for the SALT, including SHA overhead during the TERM of this AGREEMENT, is Fifty Five Thousand Eight Hundred Dollars (\$55,800.00). The costs shown in this AGREEMENT are estimates only, and actual costs may be lower, and shall be the responsibility of the VILLAGE. If cost

exceeds Fifty Five Thousand Eight Hundred Dollars (\$55,800.00) during the TERM of this AGREEMENT and SUPPLEMENTAL LOA(s), the parties agree to enter into an amendment to increase the VILLAGE's estimated costs for SALT during the remaining TERM.

- B. SHA and the VILLAGE agree to cooperate with each other to accomplish the terms and conditions of this AGREEMENT and its SUPPLEMENTAL LOAs.
- C. The terms of this AGREEMENT shall be binding until the earlier to occur of (i) of no more than four (4) years from the date first written above, (ii) thirty (30) days after written notice has been given by either party to the other that they elect to no longer be bound by the terms and conditions of this AGREEMENT, or (iii) August 31, 2017. However, termination of this AGREEMENT and any SUPPLEMENTAL LOAs is contingent on all outstanding invoices being paid by the VILLAGE to SHA.
- D. Subject to and without waiving common law and other governmental immunities and the provisions §5-301 et seq., Local Government Tort Claims Act, Courts and Judicial Proceedings Article, Annotated Code of Maryland the VILLAGE shall indemnify, hold harmless and defend, at SHA's option, the State of Maryland, SHA and the Maryland Department of Transportation, from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, incurred in connection with the loss of life, personal injury and/or property damage arising from or in connection with the activities performed pursuant to this AGREEMENT by the VILLAGE or its contractors, agents or assigns.
- E. This AGREEMENT shall inure to and be binding upon the parties hereto, their agents, successors and assigns.
- F. This AGREEMENT and the rights and liabilities of the parties hereto shall be determined in accordance with Maryland law and in Maryland courts.
- G. The recitals (WHEREAS clauses) at the beginning of this AGREEMENT are incorporated as substantive provisions of this AGREEMENT.
- H. All notices and/or invoices, if to the VILLAGE, shall be addressed to:

Shana R. Davis-Cook
Village Manager
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815
Office: (301)654-7300
Fax: (301)907-9721
E-mail: shana.davis-cook@montgomerycountymd.gov

If to SHA for Fairland Shop, to:

John Ritter
Resident Maintenance Engineer
Maryland State Highway Administration
12020 Plum Orchard Drive
Silver Spring, MD 20904
Phone: (301) 572-5166
Fax: (301) 572-5212
E-mail: jritter@sha.state.md.us

With copies to:

Mr. Brian Young, District Engineer, D-3
State Highway Administration
9300 Kenilworth Avenue
Greenbelt, MD 20770
Phone: (301) 513-7300
Fax: (301) 513-7415
Email: byoung@sha.state.md.us

and,

Mr. Glenn Klaverweiden, Agreements Coordinator
Regional and Intermodal Planning Division
State Highway Administration
707 N. Calvert Street
Mailstop C-501
Baltimore, MD 21202
Phone: (410) 545-5677
E-mail: gklaverweiden@sha.state.md.us

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IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective duly authorized officers on the day and year first above written.

STATE HIGHWAY ADMINISTRATION

WITNESS

By: _____ (SEAL)

Melinda B. Peters
Administrator

Date

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Assistant Attorney General

RECOMMENDED FOR APPROVAL:

Gregory D. Welker
Deputy Administrator/Chief Engineer
for Operations

Douglas H. Simmons
Deputy Administrator/Chief Engineer
Planning, Engineering, Real Estate, and
Environment

Lisa B. Conners
Director
Office of Finance

**CHEVY CHASE VILLAGE,
MARYLAND**

A body corporate and politic

WITNESS:

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, Village Attorney

BY: _____ (SEAL)

Shana R. Davis-Cook Date
Village Manager

RECOMMENDED FOR APPROVAL:

Michael W. Younes
Director of Municipal Operations

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

September 12, 2013

Shana R. Davis-Cook
Village Manager
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

RE: Supplemental Letter of Agreement
Salt and/or Aggregate for Winter Storm Events
BY _____

Dear Ms. Davis-Cook;

This Supplement Letter Of Agreement ("SUPPLEMENTAL LOA") between the Maryland State Highway Administration ("SHA") and Chevy Chase Village, ("VILLAGE") sets forth supplemental terms pertaining to fund the withdrawal of and payment for salt and/or aggregate for winter storm events during the winter of 2013-14 beginning August 15, 2013 and ending May 30, 2014 in accordance with the terms and conditions set forth in an AGREEMENT dated _____, Control No: _____ by and between SHA and the VILLAGE. The total amount to be invoiced during the winter of 2013-2014 is not to exceed Nine Thousand Five Hundred Dollars (\$9,500.00).

In accordance with the AGREEMENT, base rates for SALT and SHA Overhead for this SUPPLEMENTAL LOA are as follows:

SALT: \$55.86 per ton

SHA OVERHEAD: 7.66% (or at the prevailing rate as approved by FHWA)

Pursuant to the terms of the AGREEMENT and SHA's Procurement regulations, the tonnage price for SALT includes the base rate for delivery and applicable overhead and shall be adjusted accordingly at the date of actual withdrawal.

The parties agree to invoicing and payment as set forth in the AGREEMENT. Additionally, pursuant to the AGREEMENT, SHA may seek recourse against the VILLAGE's Highway User Revenue or use of Central Collections Unit (CCU) for outstanding invoices dated sixty days (60) or more.

SHA and the VILLAGE agree to cooperate with each other to accomplish the terms and conditions of this SUPPLEMENTAL LOA and the AGREEMENT.

My telephone number/toll-free number is _____
Maryland Relay Service For Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

Ms. Shana Davis-Cook
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If the terms of this SUPPLEMENTAL LOA are acceptable to the VILLAGE, please sign both originals where indicated and return the two (2) originals to:

Glenn Klaverweiden
Agreements Coordinator
707 N. Calvert Street
Mailstop C-502
Baltimore, MD 21202

Once both originals are fully executed, one (1) original will be returned to you for the VILLAGE's use and information.

Sincerely,

MARYLAND STATE HIGHWAY
ADMINISTRATION

Witness:

Brian Young Date
District Engineer

Recommended for Approval:

**Verification that SUPPLEMENTAL LOA
is consistent with AGREEMENT:**

John Ritter
Resident Maintenance Engineer

E. Glenn Klaverweiden
Agreements Coordinator

CONCURRENCE:

CHEVY CHASE VILLAGE

Witness:

Shana R. Davis-Cook Date
Village Manager
Chevy Chase Village